

LAW OFFICES

DRINKER BIDDLE & REATH

PHILADELPHIA NATIONAL BANK BUILDING
1345 CHESTNUT STREET
PHILADELPHIA, PA 19107-3496
(215) 988-2700

SUITE 900
901 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-2503

TELEPHONE (202) 842-8800

FAX (202) 842-8465

SUITE 400
47 HULFISH STREET
POST OFFICE BOX 627
PRINCETON, NJ 08542-0627
(609) 921-6336

SUITE 300
1000 WESTLAKES DRIVE
BERWYN, PA 19312-2409
(610) 993-2200

MARK F. DEVER
(202) 842-8820

May 17, 1996

BY HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

RECEIVED
MAY 17 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

DOCKET FILE COPY ORIGINAL

Re: Ex Parte Clarification -
PP Docket No. 93-253
WT Docket No. 96-59

Dear Mr. Caton:

Cook Inlet Communications, Inc. ("Cook Inlet"), on behalf of Cook Inlet Western Wireless PV/SS PCS, L.P., places this letter and enclosures on the record in the above-captioned proceedings to clarify the status of a previous communication with Commission personnel.

Cook Inlet transmitted the attached letter to Commission personnel earlier today to convey its views with respect to potential downpayment defaults by broadband PCS C Block auction participants. Pursuant to a November 7, 1994 Commission Public Notice, Cook Inlet's communication was exempt from ex parte rules. See 9 FCC Rcd 6760. A copy of that Public Notice is attached.

After Cook Inlet transmitted the attached letter to Commission personnel, it received a copy of an Emergency Petition for Waiver of the Commission's downpayment rules filed by C Block participant BDPCS, Inc. ("BDPCS"). Cook Inlet clarifies that the attached letter was not related to the Emergency Petition of BDPCS and does not constitute a formal opposition to the BDPCS pleading.

Cook Inlet delivered the attached letter to Chairman Hundt and Commissioners Quello, Ness, and Chong, and to William E. Kennard, Peter A. Tenhula, Robert M. Pepper, Michele C. Farquhar, and Kathleen O'Brien Ham.

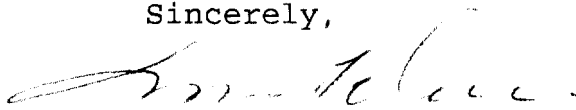
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DRINKER BIDDLE & REATH

William F. Caton
May 17, 1996
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One copy of the letter is submitted herewith along with the original pursuant to Section 1.1206(a)(2) of the Commission's Rules, 47 C.F.R. § 1.1206(a)(2).

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark F. Dever", written in a cursive style.

Mark F. Dever

Enclosures

cc: Leonard J. Kennedy, Esq. (w/enclosures)
Counsel to BDPCS, Inc.



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MAY 17 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE CHAIRMAN

COOK INLET COMMUNICATIONS

May 17, 1996

Via Facsimile – FOR IMMEDIATE DELIVERY

The Honorable Reed E. Hundt
Chairman, Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: C Block Auction License Defaults

Dear Chairman Hundt:

Cook Inlet Communications, Inc. ("Cook Inlet"), on behalf of Cook Inlet Western Wireless PV/SS PCS, L.P., understands that there may be an initial down payment default by one or more C Block auction bidders, including bidders who won markets where our partnership was the second highest bidder.

Cook Inlet urges the Commission not to grant any requests for extensions of time in which to tender C Block license initial down payments. All auction participants including those submitting extremely high C Block bids, should be required to make good on those bids in conformity with the Commission's Rules absent a showing of good cause. The grant of additional time to submit the initial down payment to some bidders would serve to encourage speculative bidding in the future and would operate as a substantial disadvantage to more responsible C Block participants.

In the event that some C Block winners have defaulted on their down payments, Cook Inlet is prepared to move expeditiously to a solution, particularly in markets where our partnership was the second highest bidder. We ask that the Commission consider alternatives other than the substantial uncertainty and delay of a re-auction.

Very truly yours,

Steve C. Hillard
Vice President

cc: The Honorable James H. Quello
The Honorable Rachelle B. Chong
The Honorable Susan Ness

William E. Kennard
Peter A. Tenhula
Robert M. Pepper
Michele C. Farquhar
Kathleen O'Brien Ham

Before the
Federal Communications Commission
Washington, D.C. 20554

Released: November 7, 1994

PUBLIC NOTICE

COMMISSION ANNOUNCES THAT MUTUALLY EXCLUSIVE "SHORT FORM" APPLICATIONS (FORM 175) TO PARTICIPATE IN COMPETITIVE BIDDING PROCESS ("AUCTIONS") ARE TREATED AS EXEMPT FOR EX PARTE PURPOSES

In the *Second Report and Order* in PP Docket No. 93-253, 9 FCC Rcd 2348 (1994), *recon. Second Memorandum Opinion and Order*, FCC 94-215 (released August 15, 1994), the Commission adopted general rules to implement the authority conferred in the Omnibus Budget Reconciliation Act of 1993 to employ competitive bidding ("auction") procedures to choose among mutually exclusive applications for initial licenses. Under section 1.2105 of the new rules, the Commission requires applicants, in order to be eligible to bid, to submit a short-form application (FCC 175), together with any appropriate filing fee set forth by Public Notice. Section 1.2102 of the rules sets forth which services or classes of services of "mutually exclusive initial applications" will be subject to competitive bidding.

We have received inquiries from applicants and members of the public concerning which *ex parte* procedures apply to these applications, particularly in view of the fact that section 1.1208 of the Commission's *ex parte* rules ordinarily treats "mutually exclusive applications" as "restricted." (In restricted proceedings, no *ex parte* presentations directed to the merits or outcome of the proceeding are permissible unless such presentations are exempted under the rules.) Neither the *Second Report and Order* nor other related actions in PP Docket No. 93-253 addressed the question of the proper *ex parte* procedures that should apply to these application proceedings.

Auction proceedings differ from other types of application proceedings before the Commission from the standpoint of the magnitude and complexity of this new process and its implementation. Because the auction process is new to the Commission, applicants and members of the public have numerous, wide-ranging questions concerning the Commission procedures and requirements that apply to competitive bidding. We believe it is desirable, therefore, to facilitate and encourage a free flow of information between applicants and the Commission staff concerning these matters. Moreover, because auctions, rather than comparative hearings, are used to select among these mutually exclusive applicants, it seems unnecessary to employ the same procedural protections that ordinarily apply in other proceedings involving mutually exclusive applications.

For these reasons, we are not treating mutually exclusive short form applications (Form 175) filed pursuant to section 2.105 of the rules as restricted proceedings under section 1.1208 of the Commission's *ex parte* rules. Instead, we are treating these mutually exclusive applications as exempt proceedings and, therefore, not subject to the *ex parte* prohibitions that generally pertain to restricted pro-

ceedings. Proceedings involving auction applicants will become restricted, however, at such time as the required long form application is filed and has been formally opposed. See section 1.1208(c)(1)(i)(B). Moreover, particular proceedings relating to auction applications could become restricted for reasons unrelated to mutual exclusivity, e.g., waiver requests or similar pleadings that are filed and relate to the short form applications would be restricted if such waiver or other similar pleading is formally opposed, as defined in the *ex parte* rules. See sections 1.1202(e) and 1.1208(c)(1)(ii)(D); also sections 1.1204(a)(2)(i) Note and 1.1208(b)(2).

Action by the Commission November 4, 1994, by Public Notice (FCC 94-283) by Chairman Hundt, Commissioners Quello, Barrett, Ness and Chong.

News Media contact: Rosemary Kimball (202) 418-0500.
Office of General Counsel contact: Steve Bailey (202) 418-1720

FEDERAL COMMUNICATIONS COMMISSION